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FILED
DEC. 1 1964
MILLICENT DUBOIS, COUNTY CLERK
By _____ Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MODOC.

EDGAR HRRRIS and RUBY B. HARRIS,) No. 6903
Husband and Wife; DONALD L. ROSENDAHL,)
a Single Man; DONALD D. COOPS and)
ROSEMARIE COOPS, Husband and Wife;)
DALE GOODWIN and ANITA GOODWIN, Hus-)
band and Wife; WILLIAM COCKRELL and)
BETTY COCKRELL, Husband and Wife, and)
FOUR STAR CATTLE CO., a Co-partner-)
ship Consisting of D. C. WISE, R. H. KISTLER)
and MELVIN A. STEVENSON,) JUDGMENT

Plaintiffs

-vs-

ELMER PAGE, GEORGE LAXAGUE and CHRIS
HANSEN, FIRST DOE, SECOND DOE, THIRD
DOE and FOURTH DOE,

Defendants

The above entitled Cause came on regularly for trial before
the Court on the 1st day of December, 1964. The
above named Plaintiffs appeared by their attorneys A. K. Wylie
and Paul B. Baker, and the above named Defendants Thelma Archer,
Administratrix of the Estate of Elmer Page, deceased, and Sole Heir
at Law of said estate, and George Laxague, appearing by their
attorney Daly B. Robnett, and no one appearing on behalf of Chris
Hansen and proof having been offered that said Chris Hansen was
duly and regularly served with a copy of the Summons and Complaint,
and more than ten (10) days having expired since said service and

1 Defendant Chris Hansen having failed to answer or otherwise plead,
2 default is hereby entered against said Defendant Chris Hansen.

3 And it further appearing that all of the parties hereto, except-
4 ing Defendant Chris Hansen, have entered into a Stipulation for Judg-
5 ment in the form and substance attached to said Stipulation; and the
6 Court having duly considered the same, and by Stipulation, Findings
7 of Fact and Conclusions of Law having been expressly waived,

8 THEREFORE, by reason of the law and the Stipulation afore-
9 said, it is

10 ORDERED, ADJUDGED and DECREED that said Plaintiffs
11 EDGAR HARRIS and RUBY B. HARRIS, husband and wife,
12 Donald L. Rosendahl, a single man, DONALD D. COOPS and
13 ROSEMARIE COOPS, husband and wife, DALE GOODWIN and
14 ANITA GOODWIN, husband and wife, WILLIAM COCKRELL and
15 BETTY COCKRELL, husband and wife, as Successors in Interest
16 to Four Star Cattle Co., a Co-partnership consisting of D. C. WISE,
17 R. H. KISTLER and MELVIN A. STEVENSON, were, at the
18 commencement of this Action and for many years prior thereto, and
19 their Grantors and Predecessors in Interest, the owners of and in
20 possession of and entitled to possession of, as hereinafter particularly
21 set forth, the lands formerly owned by W. H. Patterson, and said
22 owners with their predecessors in interest, have been in continuous
23 possession of said hereinafter described lands for more than eighty-
24 five (85) years prior to the commencement of this action, as follows:

25 1. That Plaintiffs Edgar Harris and Ruby B. Harris are now the
26 owners of the following described land, formerly a portion of the W. H.
27 Patterson lands:

28 Township (41) North, Range (16) East, M.D.B. & M.

29 Parcel 1:

30 Section 11 -- S 1/2 of S 1/2 ✓
31 Section 12 -- S 1/2 of SW 1/4 and Lot 4 of SE 1/4 ✓
Section 13 -- NW 1/4 of NW 1/4 ✓
Section 14 -- N 1/2 of NE 1/4 and NW 1/4

1 Parcel 2:

2 Section 14 -- N 1/2 of SE 1/4 and the South 2 rods of the S 1/2 of
3 NE 1/4 ✓

4 Section 13 -- E 1/2 of NW 1/4, W 1/2 of NE 1/4, SW 1/4 of NW 1/4,
5 N 1/2 of S 1/2, EXCEPT therefrom the East 2 rods
6 of said NW 1/4 of SW 1/4

7 Parcel 3:

8 Section 11 -- S 1/2 of NW 1/4, N 1/2 of SW 1/4 EXCEPT therefrom
9 a strip of land 2 rods wide off of the North side of the
10 S 1/2 of NW 1/4 of said Section (11) and said strip
11 lying against the Northern end of said S 1/2 of NW 1/4
12 and extending the full width thereof.

13 Parcel 4: ✓

14 An undivided one-half interest in and to the following:
15 Beginning at a point 537 feet South of the Northeast
16 corner of the SW 1/4 of NW 1/4 of Section (13), Town-
17 ship (41) North, Range (16) East, M.D.B. & M.;
18 thence East 210 feet; thence North 210 feet to the point
19 of beginning.

20 2. That Plaintiff Donald L. Rosendahl is now the owner of the
21 following described land, formerly a portion of the W. H. Patterson
22 lands:

23 Township (41) North, Range (16) East, M.D.B. & M.

24 Parcel 1:

25 Section 2 -- ✓ The SW 1/4 of NW 1/4 and that portion of the W 1/2 of
26 SW 1/4 described as follows: Beginning at the North-
27 west corner of the SW 1/4 of said Section (2); thence
28 East along the North line of the SW 1/4, 80 rods to the
29 Northwest corner of the NE 1/4 of SW 1/4 of said
30 Section (2); thence South along the West line of the
31 NE 1/4 of SW 1/4, a distance of 40 rods; thence West
32 and parallel with the North line of the SW 1/4 of said
Section (2), a distance of 74 rods, to a point 6 rods
East of the West line of the said Section (2); thence
South and parallel with the West line of the SW 1/4 of
Section (2), a distance of 120 rods, to the South line
of Section (2); thence West along said South line, a
distance of 6 rods to the West line of said Section (2);
thence North along the said West line of Section (2),
a distance of 160 rods to the point of beginning.

Section 3 -- SE 1/4 of NE 1/4 and E 1/2 of SE 1/4.

Section 2: ✓

Section (13) - SW 1/4 of SE 1/4 and SE 1/4 of SW 1/4

Section (24) - NW 1/4 of NE 1/4 and NE 1/4 of NW 1/4

3. That Plaintiffs Donald D. Coops and Rosemarie Coops are
now the owners of the following described land, formerly a portion of
the W. H. Patterson lands:

Township (41) North, Range (16) East M.D.B. & M.

Section 13 -- SW 1/4 of SW 1/4 EXCEPTING therefrom a strip of
land off the East side thereof as reserved by James D.

Patterson, et ux, in the Deed recorded April 5, 1929 in Deed Volume 48, Page 89, Modoc County Records.

Section 14 -- S 1/2 of S 1/2

Section 15 -- S 1/2 of SW 1/4

Section 22 -- NW 1/4, SE 1/4 of NE 1/4 and the South 4 rods of the NE 1/4 of NE 1/4 EXCEPT from the SE 1/4 of the NE 1/4, the South 2 rods thereof.

Section 23 -- NE 1/4 of NE 1/4, W 1/2 of NE 1/4 and the NW 1/4, EXCEPT from the SW 1/4 of NE 1/4, the South 2 rods as reserved in Deed from Joel C. Allen, Recorded Oct. 5, 1904 in Deed Volume 21, Page 133, Modoc County Records. ALSO EXCEPT from the S 1/2 of NW 1/4, the South 2 rods thereof.

Section 24 -- NW 1/4 of NW 1/4, EXCEPT therefrom, a strip of land off the East side thereof as reserved by James D. Patterson, et ux, in the Deed recorded April 5, 1929, Deed Volume 48, Page 89, Modoc County Records.

4. That Plaintiffs Dale Goodwin and Anita Goodwin, are now the owners of the following described land, formerly a portion of the W. H. Patterson Lands:

Township (41) North, Range (16) East, M.D.B.& M.

Parcel 1:

Section 10 -- SE 1/4

Section 15 -- N 1/2 of NE 1/4 - EXCEPTING therefrom the South 2 rods of the N 1/2 of the NE 1/4 of Section (15) and a tract of land one-half acre square beginning 2 rods North of the Southwest corner of NW 1/4 of NE 1/4 of said Section (15) (School House Lot).

Parcel 2:

Section 15 -- SE 1/4 of NE 1/4, NE 1/4 of SE 1/4 and all that portion of the SW 1/4 of NE 1/4 and the NW 1/4 of SE 1/4 lying East of the Eagleville-Cedarville Highway - EXCEPTING therefrom, a tract of land described as: Beginning at a point where the East line of the Eagleville-Cedarville Highway crosses the South line of the NW 1/4 of SE 1/4 of Section (15), Township (41) North, Range (16) East, M.D.B.&M., thence East along the said South line 200 feet; thence North 1600 feet; thence West 860 feet more or less, to the East line of said Highway; thence Southeasterly along said East line to the place of beginning.

5. That Plaintiffs William Cockrell and Betty Cockrell, Successors in Interest to Four Star Cattle Co., a Co-partnership consisting of D. C. Wise, R. H. Kistler and Melvin A. Hansen, are now the owners of the following described land, formerly a portion of the W. H. Patterson lands:

Township (41) North, Range (16) East, M.D.B.& M.

Parcel 1:--

Section 22 -- The South 2 rods of the SE 1/4 of NE 1/4

Section 23 -- The South 2 rods of the S 1/2 of NW 1/4, and the South 2 rods of the SW 1/4 of NE 1/4, all of the SE 1/4 of NE 1/4, NE 1/4 of SE 1/4.

Section 24 -- Lots 2 and 3, W 1/2 of SE 1/4, E 1/2 of SW 1/4, SW 1/4 of NW 1/4 and NW 1/4 of SW 1/4.

1 Parcel 2:

2 Section 27 --✓ S 1/2 of NW 1/4, SW 1/4 of NE 1/4, SW 1/4, NW 1/4,
3 of SE 1/4, SW 1/4 of SE 1/4, EXCEPTING there-
4 from the following described tract: Beginning at the
5 Southeast corner of the SW 1/4 of SE 1/4 of said
6 Section (27), Township (41) North, Range (16) East,
M.D.B. & M.; thence running North 35 rods; thence
running West at right angles, 45 rods; thence running
South 35 rods; thence running East 45 rods, to the
place of beginning.

7 Section 27 --✓ SE 1/4 of NE 1/4, EXCEPTING about 8 acres,
8 located East of the Cedarville-Eagleville Highway;
9 ALSO EXCEPTING 2.52 acres, more or less, in
10 favor of the County of Modoc, by Deed dated Oct. 21,
1941, recorded March 8, 1946, Official Records,
Vol. 63 at page 428.

11 6. That William Cockrell and Betty Cockrell are now the owners
12 of and in possession of a portion of the lands formerly owned by
Frank Mc Clintock, particularly described as follows:

13 Township (41) North, Range (16) East, M/D.B.& M.

14 Parcel 1:

15 Section 14 - ✓ N 1/2 of SW 1/4 and the North 78 rods of S 1/2 of
NE 1/4.

16 Parcel 2:

17 Section 15 - ✓ S 1/2 of SE 1/4 - EXCEPTING therefrom a strip of
18 land 2 rods wide as conveyed by Deed, recorded
19 July 30, 1896 in Book 12 Page 474 of Deeds, Modoc
20 County Records, for road purposes. ALSO EXCEPT-
ING therefrom a portion conveyed to the County of
Modoc by Deed recorded March 8, 1946 in Book 63,
Page 426, Official Records, Modoc County Records.

21 Parcel 3:

22 Section 22 - ✓ NE 1/4 of NE 1/4 and W 1/2 of NE 1/4 - EXCEPT-
23 ING therefrom a strip of land 2 rods wide as conveyed
24 by Deed recorded July 30, 1896 in Book 12, Page 474
25 of Deeds, Modoc County Records, for road purposes.
26 ALSO EXCEPTING therefrom the South 4 rods of
27 the NE 1/4 of NE 1/4 of said Section 22, as conveyed
28 by Deed recorded February 13, 1943 in Book 52,
Page 151, Official Records, Modoc County Records.
ALSO EXCEPTING therefrom, a portion conveyed
to the County of Modoc by Deed recorded May 8, 1946
in Book 63, Page 426, Official Records, Modoc County
Records.

29 That said Defendant Thelma Archer, Administratrix of the
30 Estate of Elmer Page, aka William Elmer Page, deceased, and Sole
31 Heir at Law, is now the owner of the following described land, situate
32 in the County of Modoc, State of California:

1 Township (41) North, Range (16) East, M.D.B. & M.
2 Section 23 -- North one-half of Southwest quarter, Southeast
3 quarter of the Southwest quarter (less ten acres off
4 the West side), Northwest quarter of the Southeast
5 quarter, and the South one-half of the Southeast
6 quarter.
7 Section 24 -- Southwest quarter of the Southwest quarter,
8
9 And Containing in all 270 acres, more or less.

7 That said Defendant George Laxague is the owner and now
8 in possession of the following described land, situate in the County of
9 Modoc, State of California:

10 Township (41) North, Range (16) East, M.D.B. & M.
11 Section 23 -- The West ten (10) acres of the Southeast quarter of
12 the Southwest quarter.

13 That all of the lands above described are agricultural and farm-
14 ing lands, and adapted to agriculture and farming, and are now being
15 used and farmed by the said Plaintiffs and Defendants for agricultural
16 purposes to-wit: For raising hay, alfalfa, grain, fruits, vegetables
17 and pasture, and that said lands have been so owned and occupied,
18 possessed and farmed by the said Plaintiffs and Defendants and their
19 predecessors, for a period of more than eighty (80) years last
20 passed, continuously preceeding the commencement of this action, and
21 that during all of said period, these Plaintiffs and Defendants, and
22 their predecessors have kept, fed and pastured large numbers of
23 horses and cattle and other stock thereon, and have harvested said
24 crops growing on said lands, each and every year.

25 That the climate in which all of said land is situated is an arid
26 climate, and that the character of said land and the soil thereon, and
27 the climate in which said lands are situated are such that irrigation is
28 necessary upon the said lands in order to produce valuable crops
29 thereon, and that irrigation is necessary and indispensable to the fer-
30 tility and value of said lands and the whole thereof, for any agricultur-
31 al purposes, and that without such irrigation, the said lands and the
32 whole thereof, would become barren, sterile and valueless, and use-

1 less and worthless for agricultural purposes.

2 That a stream of water called Cottonwood Creek rises in the
3 Warner Range of mountains, situated in Modoc County, to the West of
4 the lands of Plaintiffs and Defendants herein described, and flows in an
5 Easterly direction in well-defined channels to, upon, over and
6 across and near to said lands of Plaintiffs and Defendants, and has so
7 flowed since time immemorial; that at the start of the irrigation season, also
8 about the first of April each year, the flow of the waters of said
9 Cottonwood Creek will flow approximately about five thousand (5,000)
10 inches measured under a four inch pressure, but, as the season ad-
11 vances, the flow in said Cottonwood Creek diminishes so that by the
12 first of July in each year, the flow of the waters in said Cottonwood
13 Creek has diminished to about twelve hundred (1,200) inches, measur-
14 ed under a four inch pressure.

15 That Plaintiffs and Defendants Thelma Archer as Administratrix
16 of the Estate of Elmer Page, deceased, and George Laxague and all
17 of their predecessors in interest, have for more than eighty (80) years
18 appropriated and diverted and used the waters of Cottonwood Creek
19 onto said lands belonging to said Plaintiffs and Defendants Thelma
20 Archer as Administratrix of the Estate of Elmer Page, deceased, and
21 George Laxague, sufficient in amount and quantity to irrigate their
22 aforesaid lands, for the purposes aforesaid, and for stock and domes-
23 tic purposes.

24 That the said waters so appropriated and used by Plaintiffs and
25 Defendants Thelma Archer, as Administratrix of the Estate of Elmer
26 Page, deceased, and George Laxague, aforesaid, and the whole there-
27 of, are necessary and indispensable to the growing of crops of hay,
28 grain, pasture, alfalfa, fruits and vegetables upon the said lands of
29 Plaintiffs and Defendants Thelma Archer as Administratrix of the Es-
30 tate of Elmer Page, deceased, and George Laxague, and that with
31 the said waters of said Cottonwood Creek so appropriated and used
32 by the said Plaintiffs and Defendants and their predecessors in interest,

1 Plaintiffs and Defendants can and do produce valuable crops of hay,
2 grain alfalfa, pasturage, vegetables and fruits, but without the waters
3 of said Cottonwood Creek, so appropriated and used by said Plaintiffs
4 and Defendants and their predecessors in interest, their said crops
5 planted on said lands would cease to grow, would not mature and
6 would dry up, and the said lands and the whole thereof would become
7 unproductive, barren, sterile and of small value.

8 That by Agreement and Stipulation of all Plaintiffs and Defend-
9 ants Thelma Archer, as Administratrix of the Estate of Elmer Page,
10 deceased, and George Laxague, it is

11 ORDERED, ADJUDGED AND DECREED that, irrespective
12 of whether the claimed water rights are appropriated as claimed by
13 Defendants Thelma Archer, as Administratrix of the Estate of Elmer
14 Page, and George Laxague, or appropriated riparian, by adverse
15 prescription or by contract, as claimed by Plaintiffs, said waters of
16 Cottonwood Creek shall be and are Determined and Adjudged to be,
17 on an equal priority basis, irrespective of the nature of said claimed
18 rights, and it is

19 FURTHER ORDERED, ADJUDGED AND DECREED that
20 no rights herein of any of the respective parties are superior to the
21 rights of the other parties, but that all of said water rights stand upon
22 an equal parity and priority basis in the following percentages of their
23 rights to the flow of waters in said Cottonwood Creek, measured
24 under a four inch pressure, as follows:

25	Thelma Archer, Successor in Interest	
26	to Elmer Page, deceased,	6.00 %
26	George Laxague	0.54 %
27	Edgar Harris and Ruby B. Harris	47.55 %
27	Dale Goodwin and Anita Goodwin	12.53 %
28	Donald L. Rosendahl	5.58 %
28	Donald D. Coops and Rosemarie Coops	4.18 %
29	William Cockrell and Betty Cockrell, as	
30	Successors in Interest of Four Star Cattle	
30	Co., a Co-partnership consisting of D. C.	
31	Wise, R. H. Kistler and Melvin A. Steven-	
31	son	5.58 %
32	William Cockrell and Betty Cockrell, as	
32	Successors in Interest to a portion of the	
32	Frank McClintock lands	18.04 %

1 In connection with the above determined percentages, and for
2 illustrative purposes only, when the flow of the waters of Cottonwood
3 Creek equal one thousand inches (1,000) minimum at the measuring
4 box at the mouth of the canyon of said Cottonwood Creek, said 1,000
5 inches of the flow, measured under a 4" pressure, would be divided
6 and diverted, in inches, as follows:

7 Thelma Archer, as Successor in Interest		
8 to Elmer Page, deceased,	60.00 inches	
9 George Laxague	5.4	"
10 William Cockrell and Betty Cockrell, as		
11 owners of a portion of the Frank Mc-		
12 Clintock lands	180.38	"
13 Edgar Harris and Ruby B. Harris	475.61	"
14 Dale Goodwin and Anita Goodwin	125.35	"
15 William Cockrell and Betty Cockrell, as		
16 Successors in Interest to Four Star		
17 Cattle, Co., a Co-partnership consisting		
18 of D. C. Wise, R. H. Kistler and		
19 Melvin A. Stevenson	55.74	"
20 Donald L. Rosendahl	55.74	"
21 Donald D. Coops and Rosemarie Coops	41.78	"

22 That irrespective of the flow of said Cottonwood Creek, the
23 above named percentages would apply and be employed, except as
24 hereinafter provided.

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED
26 that each of the parties hereto shall take, divert and receive, from
27 their respective percentages as above set forth, such waters from the
28 flow of said Cottonwood Creek as is necessary for their stock and
29 domestic purposes, provided, however, that as to Defendants Thelma
30 Archer, as Administratrix of the Estate of Elmer Page, deceased,
31 and George Laxague, at such time as the total flow to which they
32 shall be entitled in the above percentages from the waters of Cotton-
wood Creek, will not and does not, when diverted through the "Page
Ditches" reach the westerly side of the presently existing Modoc County
Road 1A, then, in such event, all of the Defendants water rights and
the flow thereof from Cottonwood Creek shall thereafter during such time as said flow will not reach
the westerly side of Modoc County Road 1A, shall be diverted to the

1 use of the other users herein of Cottonwood Creek.

2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED,
3 that at such times in each calendar year that the flow in Cottonwood
4 Creek is so reduced that the allocated percentages to Plaintiff Donald
5 L. Rosendahl, Plaintiffs Donald D. Coops and Rose Marie Coops,
6 and William Cockrell and Betty Cockrell, as successors in interest to
7 Four Star Cattle Company, are not, when diverted through what is
8 commonly known as the "Minto Ditch" reach the West side of Modoc
9 County Road 1-A, then and only in such event, all of their flow in
10 Cottonwood Creek shall thereupon be diverted into what is commonly
11 known as the "Sand Hill Ditch" as follows: four-fifths (4/5ths) of all
12 said flow to Plaintiffs Edgar Harris and Ruby B. Harris and Plaintiffs
13 Dale Goodwin and Anita Goodwin, and one-fifth (1/5th) to Plaintiffs
14 William Cockrell and Betty Cockrell, as owners of a portion of the
15 Frank McClintock lands.

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED,
17 that each of the parties hereto shall, and they are hereby ordered, to
18 construct and maintain suitable diversion boxes and measuring devices
19 to adequately and properly facilitate the distribution and the diversion of
20 water as provided by this Decree, that is to say, that each party here-
21 to shall be responsible for suitable and adequate boxes and measuring
22 devices where the respective owner's water is diverted from the main
23 diversion box at the mouth of Cottonwood Creek Canyon, and further
24 responsible for his proportionate share of diversion boxes and measur-
25 ing devices at subsequent points on his ditch where additional diversions
26 are necessary or desirable.

27 IT IS FURTHER ORDERED, ADJUDGED AND DECREED,
28 that Plaintiffs herein are not entitled to, and have no interest or claim
29 or other right, in and to the natural flow of the waters of what is
30 commonly known as Little Cottonwood Creek, also known as Mosquito
31 Creek, but that all of said waters of Little Cottonwood Creek, aka
32 Mosquito Creek, are wholly owned by Defendant Thelma Archer,

1 Administratrix of the estate of Elmer Page, deceased, and Sole Heir
2 at Law.

3 IT IS FURTHER ORDERED, ADJUDGED AND DECREED,
4 that the respective rights of the Plaintiffs, and Defendants Thelma
5 Archer, Administratrix of the Estate of Elmer Page, deceased, and
6 George Laxague and each of them, their heirs, assigns, executors,
7 administrators and grantees, and all persons acting under or through
8 them, or any of them, have superior rights, as herein set forth, to
9 all other persons of every kind and nature claiming any of the waters
10 of Cottonwood Creek, and said all other persons, including Defendant
11 Chris Hansen, their heirs, assigns, executors, administrators and
12 grantees, are hereby restricted and enjoined from, in any manner or
13 by any means, interfering with, impeding or obstructing the flow of
14 the waters of said Cottonwood Creek so owned by Plaintiffs and De-
15 fendants Thelma Archer, Administratrix of the Estate of Elmer Page,
16 deceased, and Sole Heir at Law, and George Laxague, as herein
17 Decreed and Adjudged, to and upon the lands of said Plaintiffs and
18 Defendants Thelma Archer, Administratrix of the Estate of Elmer Page,
19 deceased, and George Laxague, as herein described, or from, in
20 any manner or by any means, interfering with the ditches of Plaintiffs
21 and Defendants, Thelma Archer, Administratrix of the Estate of Elmer
22 Page, deceased, and George Laxague, or any of said diversion boxes
23 and/or ditches leading from the channel of said Cottonwood Creek to
24 and upon the said lands of said Plaintiffs and Defendants, or any part
25 or portion thereof.

26 IT IS FURTHER ORDERED that Plaintiffs and Defendants,
27 Thelma Archer, Administratrix of the Estate of Elmer Page, deceased,
28 and Sole Heir at Law, and George Laxague, shall each pay their
29 respective costs of said Action.

30 IT IS FURTHER ORDERED that a Certified Copy of this
31 Decree be filed for record in the Office of the Recorder of the said
32 County of Modoc, and that the same be recorded in the Records of

1 the said County of Modoc.

2 DATED this 1st day of December, 1964.

3
4
5 + Charles L. Lauer
6 Judge of the Superior Court